

EXHIBIT C

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Relator Qui Tam Plaintiff MIKE STIERLI
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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA and the)
12 STATE OF CALIFORNIA *ex rel* MIKE)
13 STIERLI)

Case No. S-04-1955 MCE/PAN-JFM

14 Relator Plaintiff,
15 v.
16 SHASTA SERVICES, INC. dba
17 TIMBERWORKS; and DOES 1 through
50, inclusive,

SUPPLEMENTAL RESPONSES
TO TIMBERWORKS' SPECIAL
INTERROGATORIES, SET NO. 1
PROPOUNDED TO PLAINTIFF
MIKE STIERLI

17 *Qui Tam Defendants.*
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20 PROPOUNDING PARTY: Defendant SHASTA SERVICES, INC., dba TIMBERWORKS

21 RESPONDING PARTY: *Qui Tam Plaintiff MIKE STIERLI*

22 SET NUMBER: ONE (1) - Special Interrogatories

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1 *Qui Tam* Plaintiff Mike Stierli hereby submits the following supplemental
2 responses to the Specially Prepared Interrogatories, Set No. 1, propounded by Defendant
3 Shasta Services, Inc. dba Timberworks, as follows:

4 **PRELIMINARY STATEMENT and GENERAL OBJECTIONS**

5 Plaintiff and its attorneys have not yet completed their discovery or preparations
6 for trial, nor have they completed their analysis or review of the papers, documents, or
7 other things obtained to date. The answers and responses set forth herein, therefore,
8 reflect only the present information and analysis of *Qui Tam Plaintiff* and his attorney as
9 acquired and reviewed to date, without prejudice to *Qui Tam Plaintiff*'s right to present
10 additional facts, contentions, or theories at trial, based on information, evidence, or
11 analysis hereafter obtained or evaluated.

12 No incidental or implied admissions are intended by these responses. Plaintiff's
13 response or objection to any specific demand should not be construed as an admission
14 that Plaintiff accepts or admits the existence of any facts set forth or assumed by the
15 demand or that such answer or objection constitutes admissible evidence. The fact that
16 Plaintiff has responded to all or part of any specific interrogatory is not intended, and
17 shall not be construed, to be a waiver by Plaintiff of any part of any objection to the
18 interrogatory.

19 **RESPONSES TO INTERROGATORIES**

21 **RESPONSE TO INTERROGATORY NO. 1:**

22 Plaintiff is presently unaware of any document responsive to this interrogatory
23 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

24 **RESPONSE TO INTERROGATORY NO. 2:**

25 Plaintiff is presently unaware of any document responsive to this interrogatory
26 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

1 **RESPONSE TO INTERROGATORY NO. 3a:**

2 Plaintiff is presently unaware of any document responsive to this interrogatory
3 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

4 **RESPONSE TO INTERROGATORY NO. 3b:**

5 Plaintiff is presently unaware of any document responsive to this interrogatory
6 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

7 **RESPONSE TO INTERROGATORY NO. 3c:**

8 Objection. The complaint does not allege that Pilkington was a DBE.
9 Notwithstanding this objection, Plaintiff is presently unaware of any document responsive
10 to this interrogatory other than those identified in the complaint, attached thereto marked
11 Exhibit I- IV. Plaintiff bases this assertion upon the State of California DBE and DVBE
12 databases applicable at the time, upon the bid materials submitted by Enterra, Pilkington
13 and Timberworks, and upon the USDOT investigation.

14 **RESPONSE TO INTERROGATORY NO. 4:**

15 Plaintiff is presently unaware of any document responsive to this interrogatory
16 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

17 **RESPONSE TO INTERROGATORY NO. 5:**

18 Plaintiff is presently unaware of any document responsive to this interrogatory
19 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

20 **RESPONSE TO INTERROGATORY NO. 6:**

21 CalTrans awarded the contract to a bidder who failed to meet the contract DBE
22 goal or document adequate good faith effort to meet it, according to the conclusion
23 reached by the USDOT Office of Civil Rights.

24 **RESPONSE TO INTERROGATORY NO. 7:**

25 Plaintiff is presently unaware of any document responsive to this interrogatory
26 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

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2 **RESPONSE TO INTERROGATORY NO. 8:**

3 Plaintiff is presently unaware of any document responsive to this interrogatory
4 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

5 **RESPONSE TO INTERROGATORY NO. 9:**

6 Despite knowledge that its DBE efforts were inadequate and failed to include
7 Enterra, Timberworks nonetheless proceeded to perform under the contract award and
8 then knowingly submitted bills or invoices ("claims") for payment to the State.
9 Timberworks further knew or should have known that its "good faith" efforts were under
10 investigation by the State and/or US DOT and notwithstanding this knowledge,
11 Timberworks nonetheless submitted claims for payment. Said claims constitute material
12 representation that Timberworks complied with all the contract requirements.

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14 **RESPONSE TO INTERROGATORY NO. 10:**

15 Plaintiff is presently unaware of any document responsive to this interrogatory
16 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

17 **RESPONSE TO INTERROGATORY NO. 11:**

18 Despite knowledge that its DBE efforts were inadequate and failed to include
19 Enterra, Timberworks nonetheless proceeded to perform under the contract award and
20 then knowingly submitted bills or invoices ("claims") for payment to the State.
21 Timberworks further knew or should have known that its "good faith" efforts were under
22 investigation by the State and/or US DOT and notwithstanding this knowledge,
23 Timberworks nonetheless submitted claims for payment. Said claims constitute material
24 representation that Timberworks complied with all the contract requirements.

25 **RESPONSE TO INTERROGATORY NO. 12:**

26 Plaintiff is presently unaware of any document responsive to this interrogatory
27 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

1 RESPONSE TO INTERROGATORY NO. 13:

2 With knowledge that Timberworks failed to meet the DBE goal, CalTrans
3 nonetheless paid Timberworks' billing invoices and disregarded the result of the US DOT
4 investigation.

5 RESPONSE TO INTERROGATORY NO. 14:

6 Plaintiff is presently unaware of any document responsive to this interrogatory
7 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

8 RESPONSE TO INTERROGATORY NO. 15:

9 Plaintiff is presently unaware of any document responsive to this interrogatory
10 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

11 RESPONSE TO INTERROGATORY NO. 16:

12 Objection. Compound, vague and ambiguous. Subject to this objection, CalTrans
13 was for months aware USDOT was investigating the Timberworks contract, but
14 nonetheless issued payment to Timberworks as late as July 2004, after the contract was
15 completed, and at least three months after USDOT submitted its final report.

16 RESPONSE TO INTERROGATORY NO. 17:

17 Plaintiff is presently unaware of any document responsive to this interrogatory
18 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

19 RESPONSE TO INTERROGATORY NO. 18:

20 The facts in response to this interrogatory consist of the April 16, 2004 letter from
21 Gene K. Fong, Division Administrator, U.S. Department of Transportation to Thomas
22 Gibson (Bates No. 037) and accompanying documents set out in Exhibit II of the
23 disclosure statement filed in the subject action. It is based on the facts reflected in the
24 "payment history" for the subject contract No. 02366704 available at
25 <http://www.dot.ca.gov/hq/asc/oap/payments/public/02366704.htm>. Further, facts in
26 response to Interrogatory No. 18 include representations made to Paul F. Dauer by Jose
27 Aguirre, Assistant Chief Counsel for CalTrans in a telephonic discussion.

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1 RESPONSE TO INTERROGATORY NO. 19:

2 Plaintiff is presently unaware of any document responsive to this interrogatory
3 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

4 RESPONSE TO INTERROGATORY NO. 20:

5 Plaintiff asserts association in fact between Timberworks and other persons based
6 on the facts set forth in letter of September 13, 2002 from Thomas R. Gibson to Dr.
7 Jeremy S. Wu of the Office of Civil Rights for the U.S. Department of Transportation and
8 the accompanying exhibits. These documents are set forth as Exhibit I to the disclosure
9 statement for the subject false claims action. In summary, the facts include CalTrans *in*
10 *camera* review of the good faith efforts as represented by Timberworks in its bid and as
11 protested by MDS with the participation by Timberworks in the *in camera* discussions.
12 Further, CalTrans relied on Timberworks representations of the acts constituting good
13 faith efforts at M/W/DVE compliance in competing for award of the subject contract.
14 The association was implemented by submission, receipt and review of progress and final
15 payment requests and the issuance of warrants for payment by CalTrans with federal
16 funds.

17 RESPONSE TO INTERROGATORY NO. 21:

18 Plaintiff is presently unaware of any document responsive to this interrogatory
19 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

20 RESPONSE TO INTERROGATORY NO. 22:

21 Timberworks activities, including multiple instances of mail fraud include
22 transmittal of progress payment and final payment requests in accordance with the
23 payment history of the subject contract and the transmittal of warrants by CalTrans to
24 Timberworks in payment of the progress requests, as set forth in detail at the internet
25 website quoted in response to Special Interrogatory No. 18.

26 RESPONSE TO INTERROGATORY NO. 23:

27 Plaintiff is presently unaware of any document responsive to this interrogatory
28 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

1 **RESPONSE TO INTERROGATORY NO. 24:**

2 Each invoice for payment submitted via U.S. Mail constituted mail fraud within
3 the meaning of 18 USC §1341. Timberworks submitted 18 invoices.

4 **RESPONSE TO INTERROGATORY NO. 25:**

5 Plaintiff is presently unaware of any document responsive to this interrogatory
6 other than those identified in the complaint, attached thereto marked Exhibit I - IV.

7
8 DATED: March 23, 2006

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10 By:

LAW OFFICES OF PAUL F. DAUER

11 Paul F. Dauer, Attorneys for *Qui Tam* Plaintiff
Mike Suerli

CERTIFICATE OF SERVICE
Sealed v. Sealed
Case No. CIV.S-04-1995 MCE PAN

I, PAULA ELVICK, hereby declare and state that:

I am over the age of eighteen years, employed in the City and County of Sacramento, California, United States of America, and not a party to the within action. My business address is 400 Capitol Mall, Suite 2950, Sacramento, California 95814

On March 24, 2006, I served the within **SUPPLEMENTAL RESPONSES TO TIMBERWORKS' SPECIAL INTERROGATORIES, SET NO. 1 PROPOUNDED TO PLAINTIFF MIKE STIERLI** on the following party(ies) to this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

- [X] (BY EMAIL) I caused such document to be delivered by email to the addresses below.
- [X] (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mailbox at Sacramento, California. I am familiar with my company's practice whereby the mail, after being placed in a designated area, is given the appropriate postage and is deposited in a U.S. mail box in Sacramento, California, in the ordinary course of business.

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Kristin S. Door, Assistant US Attorney
Department of Justice
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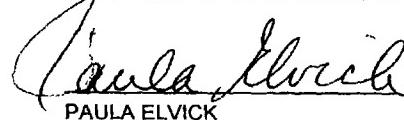
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I declare under penalty of perjury under the law of the State of California and the United States of America that the foregoing is true and correct, and that this document was executed on March 24, 2006, at Sacramento, California.



PAULA ELVICK